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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,970	07/09/2003	Kenneth Douglas Vinson	9325	1281

27752 7590 12/29/2006  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL BUSINESS CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
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FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/615,970

Applicant(s)

VINSON ET AL.

Examiner

José A. Fortuna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Phan et al., US Patent No. 5,240,562, (US'562) or Van Phan et al., US Patent No. 5,334,286, (US'286), or Phan et al., 5,279,767, (US'767) or Trokhan et al., US Patent No. 5,624,532, (US'532) or Phan et al., US Patent No. 5,981,044, (US'044).

All of the above patents teach a tissue containing a polyhydroxy compound, same as the ones claimed and added at the same range, see US'044, column 3, lines 26-58; US'532, column 5, lines 38-61; US'767, column 3, lines 12-40; US'286, column 10, lines 36-54; US' 562, column 6, lines 18-33. The above patents teach also the use of opacity increasing agents, such as particular fillers, see column 4, lines 44-60 of the US'562.

Therefore, the above patents seem to have all the limitations of the claims or at least the minor modification to obtain the claimed invention would have been obvious to one of ordinary skill in the art. Note that they teach multi-ply, multi-layer tissues, see for example column 9, line 37 through column 10, line 12 of US'562.

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yoshifumi et al., Japan Application Number 11332777

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Yoshifumi et al. teach a wiping product in which a polyol compound, including a polyethylene oxide, is added to the web, see abstract. Yoshifumi teaches also the addition of fillers in the tissue.

4. Claims 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hendrix et al., US Patent Application Publication No. 2002/0192407 A1 or Shantz et al., US Patent Application Publication No. 2001/0055609 A1 or West et al., US Patent Application Publication No. 2004/0052834 A1 or Edwards et al., US Patent Application Publication No. 2003/0136531 A1.

All of the above patent application publications teach a tissue in which polyethylene oxide, polyethylene glycol is added to the tissue. All of them teach the use of the same type Polyethylene as disclosed by applicants on paragraph bridging pages 4 and 5, i.e., Union Carbide POLYOX, see Hendrix et al., paragraph [0103]; Shantz et al., paragraphs [0066], [0094], [0115] and [0122]; West et al., paragraphs, [0066], [0094], [0115] and [0122] and Edwards et al., paragraph [0153] for the polyhydroxy compounds; [0124] for the use of fillers and pigments in the same range as claimed. All of the above patents teach the use of fillers and/or pigments within the same range as claimed, and even though Hendrix et al., Shantz et al., West et al. and/or Edwards et al. are silent with respect to the increase of opacity as claimed, they teach the same add-on rate as disclosed by applicants and therefore, the properties of the tissues of the cited references, Hendrix et al., Shantz et al., West et al. and Edwards et al. would have to be assumed to be inherently the same as the ones claimed. Note also that they teach multi-ply, multi-layered tissues.

***Response to Arguments***

5. Applicant's arguments filed on November 20/2006 have been fully considered but they are not persuasive.

Applicants' arguments stating that there is synergism in the use of the opacity increasing system is not convincing, since it amounts to mere allegation of patentability. Applicants have not supplied any evidence, e.g., in form of affidavit or Declaration under 37 C.F.R. 1.132 or pointing out data in the specification showing such synergy. Note that all of the cited references show the use of the claimed system, i.e., the flexibilizing agent and opacity-increasing agent.

***Conclusion***

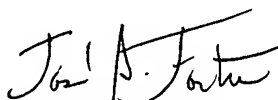
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art "Tissues with Flexibilizing Agents."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



José A Fortuna  
Primary Examiner  
Art Unit 1731

JAF